

REMARKS

The Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated April 5, 2007 has been received and its contents carefully reviewed.

Claims 11-17 were withdrawn. Claims 1-10 and 18-25 are pending. Reexamination and reconsideration of the pending claims is respectfully requested.

At the outset, Applicants object to the finality of the Office Action at least because, as explained below, the Office has entirely failed to address certain claims of the application, the Office has both incorrectly described elements and made reference to non-existent elements in the primary reference, and the Office has relied on a baseless opinion to establish inherency. For at least these reasons, if the Office intends to maintain its rejections, Applicants request the withdrawal of the finality of the instant Office Action and the issuance of a new non-final Office Action that corrects at least the above-identified errors.

Applicants note that claims 7-8, 10, and 20-24 were not addressed in the Office Actions mailed April 5, 2007 and October 6, 2007. Because these claims were not rejected in either Office Action, they are presumed to contain allowable subject matter. Applicants respectfully request the Office to confirm that claims 7-8, 10, and 20-24 contain allowable subject matter. However, if the Office intends to reject claims 7-8, 10, and 20-24, then Applicants request a new non-final Office Action and an opportunity to consider any rejection of claims 7-8, 10, and 20-24. The Office should not penalize Applicants due to the Office's omissions.

Applicants note that the Office has both incorrectly described elements and referred to non-existent elements of the primary reference. Applicants also note that the Office has entirely failed to provide citation to any portion of the secondary references in support of its rejections. Title 37 of the Code of Federal Regulations, at § 1.104(c)(2), states that "[w]hen a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable" and that "[t]he

pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” It is noted that the Office states that *Tanigawa* discloses “a circulation motor/pump/hose (95, see fig. 11 for example) and injection unit (not shown) including a connector (242) penetrating a gasket.” *Office Action* at paragraph 2. After carefully reviewing *Tanigawa*, Applicants find that 95 is a filter. *Tanigawa* at column 13, lines 22-23. Moreover, there is no “connector (242)” anywhere in the 63-page *Tanigawa* patent. If the rejection of the claims is maintained in view of *Tanigawa*, Applicants respectfully request the Office to particularly identify, at least by correct reference number and citation to paragraph and line number of the text, those particular parts of the reference that were relied on in the rejection. Applicants respectfully request the same attention to the figures and disclosure of *Schrage*, *Munz*, and *Miller*, in that the Office Action does not provide any citation to those references to support their alleged pertinence. Such identification and clear explanation are required so that Applicants may prepare an adequate response.

Applicants note that the Office improperly bases its establishment of inherency on the Examiner’s personal opinion. The Examiner states that “it is the examiner[’s] position that in view of the similar structure, the dispersion as claimed is deemed to be inherent.” *Office Action* at paragraph 4. An examiner may not rely merely on his personal opinion to establish inherency. “To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” MPEP at § 2112.IV (internal citations omitted). “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Id.* (emphasis added).

To the extent that Applicants understand the pertinence of the references and the rejections set forth in the Office Action, Applicants state as follows:

The Office rejects claims 1, 18, and 25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,032,494 to *Tanigawa et al.* (hereafter *Tanigawa*) in view of

either U.S. Patent No. 4,000,968 to Schrage *et al.* (hereafter *Schrage*), U.S. Patent No. 1,805,782 to Munz (hereafter *Munz*), or U.S. Patent No. 1,401,176 to Miller *et al.* (hereafter *Miller*). Applicants respectfully traverse the rejection.

As required in Chapter 2143.03 of the M.P.E.P., in order to establish *prima facie* obviousness of the claimed invention, all the limitations must be disclosed by the cited references. The cited references do not teach or suggest all the elements of claims 1, 18, and 25, and thus, cannot render these claims obvious.

Claims 1, 18, and 25 recite, among other elements, an injection unit including a nozzle, the nozzle being “configured such that water is dispersed in a plurality of substantially horizontal directions” (emphasis added). “The uniform dispersed and discharged water rapidly wets the laundry (100) received in the drum 20 in an initial stage of the washing process.” *Specification* at paragraph 00073. *Tanigawa* fails to teach at least this feature of claims 1, 18, and 25. As correctly stated in the Office Action, *Tanigawa* is at least different from the current application “in the recitation of the injection including a nozzle.” *Office Action* at paragraph 2. *Schrage*, *Munz*, and *Miller* do not cure the deficiency in *Tanigawa* with respect to claims 1, 18, and 25.

Schrage teaches that a flow passage 70 directs “the flow of water downwardly into the basket 14” (emphasis added). *Schrage* at column 3, lines 61-64, and Figs. 2 and 4. *Munz* relates to spray nozzles in sprinkling systems for lawns, the spray nozzles “having means for forming the liquid into a thin film” (emphasis added). *Munz* at page 1, column 1, lines 1-4 and 40-42. *Miller* relates to spray heads used to produce a spray in all directions, such as that used in 1921 for “washing air” in connection with ventilating and heating systems. *Miller* at column 1, lines 9-14. Indeed, *Miller* teaches that “the stream of water following through the nipple 3 is forced under pressure from the orifice 7, and striking the spray plate 13 is deflected in sheet or spray radially in all directions” (emphasis added). *Miller* at column 2, lines 79-83; Figs. 1-7. Accordingly, claims 1, 18, and 25 are allowable over the combined teaching of *Tanigawa*, *Schrage*, *Munz*, and *Miller*. Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1, 18, and 25.

The Office rejects claims 2-6, 9, and 19 under 35 U.S.C. § 103(a) as being obvious over *Tanigawa* in view of either *Schrage*, *Munz*, or *Miller*, in further view of German Patent No. 38 11 583 (hereafter *German '583*). Applicants respectfully traverse the rejection.

As discussed above, *Tanigawa*, *Schrage*, *Munz*, and *Miller* fail to teach at least the above-recited feature of independent claims 1 and 18. *German '583* does not cure the deficiency in *Tanigawa*, *Schrage*, *Munz*, and *Miller* with respect to claims 1 and 18. In fact, *German '583* is cited for purportedly teaching an annular rib. However, *German '583* is completely silent concerning a nozzle being “configured such that water is dispersed in a plurality of substantially horizontal directions,” as recited in claims 1, 18, and 25. Accordingly, claims 1, 18, and 25 are allowable over the combined teaching of *Tanigawa*, *Schrage*, *Munz*, *Miller*, and *German '583*. Claims 2-6, 9, and 19, which directly or indirectly depend from claims 1 and 18, are also allowable for the same reasons. Applicants, therefore, respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 2-6, 9, and 19.

The application in condition for allowance. Early and favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911.

Reply dated June 21, 2007

Reply to Final Office Action dated April 5, 2007

Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: June 21, 2007

Respectfully submitted,

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